

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement for date of service 03/27/01?
- b. The request was received on 02/27/02.

II. EXHIBITS

1. Requestor, Exhibit 1:
 - a. TWCC-60 and Letter Requesting Dispute Resolution dated 04/02/02
 - b. HCFA-1450s
 - c. EOBs
 - d. EOBs from other carriers (reimbursement data)
 - e. Medical Records
 - f. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit 2:
 - a. TWCC-60 and Response to a Request for Dispute Resolution dated 04/22/02
 - b. HCFA-1450s
 - c. EOBs
 - d. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Per Rule 133.307 (g)(3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 04/09/02. Per Rule 133.307 (g)(4), the carrier representative signed for the copy on 04/12/02. The response from the insurance carrier was received in the Division on 04/23/02. Based on 133.307 (i), the insurance carrier's response is timely.
3. Notice of Medical Dispute is reflected as Exhibit #3 of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: Letter dated 04/02/02

“We are appealing the amount disallowed on the above mention claims. The charges are for **FACILITY FEES**, not professional fees. We feel that 57% paid on a right thumb trigger release is not fair or reasonable.”

2. Respondent: Letter dated 04/22/02
“The carrier contends it has reimbursed the billed charges in amounts that are reasonable and necessary and in accordance with applicable fee guidelines.”

IV. FINDINGS

1. Based on Commission Rule 133.307(d)(1&2), the only date of service eligible for review is 03/27/01.
2. The provider billed a total of \$3,236.62 on the date of service in dispute.
3. The carrier reimbursed a total of \$1,848.32 on the date of service in dispute.
4. The carrier’s EOB has the denial “M – NO MAR”
5. The amount in dispute is \$1,388.30, the difference between the total amount billed and reimbursed.

V. RATIONALE

The medical documentation indicates the services were performed at an ambulatory surgery center. Commission Rule 134.401 (a)(4) states ASCs, “shall be reimbursed at a fair and reasonable rate...”

Section 413.011 (d) of the Texas Labor Code states, “Guidelines for medical services must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fees charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual’s behalf. The Commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines.”

Commission Rule 133.304 (i)(1-4) places certain requirements on the carrier when reducing the billed amount to fair and reasonable. The carrier’s response does not contain the methodology used by the carrier to determine fair and reasonable reimbursement.

The provider has submitted reimbursement data. The provider has submitted EOBs from other carriers, these indicate that the provider has been reimbursed and accepted as fair and reasonable from 85% to 100% of the billed amount.

Due to the fact that there is no current fee guideline for ASCs, the Medical Review Division has to determine based on the parties' submission of information, which party has provided the more persuasive evidence. The carrier's response does not meet the requirement of Commission Rule 133.304 (i)(1-4). The provider has submitted reimbursement data in an effort to document fair and reasonable reimbursement and meet the criteria identified in Sec. 413.011(d) of the Texas Labor Code. Based on the evidence available for review, the Requestor is entitled to reimbursement of 85% of the billed amount. Therefore, additional reimbursement of \$902.81 ($\$3,236.62 \times 85\% = \$2,751.13$ less \$1,848.32) is recommended.

VI. ORDER

Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Medical Review Division hereby ORDERS the Respondent to remit \$902.81 plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this order.

This Order is hereby issued this 14th day of May 2002.

Larry Beckham
Medical Dispute Resolution Officer
Medical Review Division